

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.4421 of 1989
Date of decision: 28.04.2010

Arjan Singh (deceased) through his LRs.Petitioners

versus

The Union Territory, Chandigarh through its Administrator and others.
...Respondents

II. Civil Writ Petition No.16737 of 1989

Tara Chand ChhabraPetitioner

versus

The Union Territory, Chandigarh through its Administrator and others.
...Respondents

III. Civil Writ Petition No.17084 of 1989

Dwarka Dass JainPetitioner

versus

The Union Territory, Chandigarh through its Administrator and others.
...Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rahul Sharma, Advocate, for the petitioners.
(in CWP No.4421 of 1989)
None for the petitioners in
CWP Nos.16737 and 17084 of 1989.
Mr. Sanjay Kaushal, Senior Standing Counsel, for the
Chandigarh Administration.
None for respondents 5, 6 and 8.
Mr. Manohal Lall, Additional Advocate General, Punjab, for
respondent No.7.

1. Whether reporters of local papers may be allowed to see the judgment?
 2. To be referred to the reporters or not?
 3. Whether the judgment should be reported in the digest?
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K.Kannan, J (Oral)

1. The petitioners are owners of the property in SCO Nos.70 to 72 in Sector 17-D, Chandigarh. The final order of resumption in challenge is the one passed by the Advisor to the Administrator recording the fact that the violations which had been pointed out, had not been removed and, therefore, the property was liable for resumption.
2. The contention of the petitioners was that some of the violations which had been pointed out, could not be removed in view of the properties being in the possession of the tenants, who had taken independent pleas complaining that the land owners were colluding with the administration to oust them from possession by deliberately suffering an order of eviction. All the tenants in possession have been cited as respondents 6 to 8. The petitioners and the tenants have a common ground to canvass at the time when the writ petition is finally taken up to urge that the deviations which had been pointed out and which were taken as a basis for actions for resumption have since ceased or become compoundable. At the time when the order of resumption had been passed, the following violations had been pointed out:-

*“1. Direct entry to basement from public verandah has been provided which is not as per sanctioned plan.
3. Additional partitions is also done there.
4. Big show windows in right side verandah have been divided into small show windows.
5. Stair position from right side verandah is shifted at the back verandah against the plans and instead of round square pills are constructed.”*

Of the above 5 items of deviations, item No.2 refers to a conversion and division of a kitchen into a toilet and a small shop with entry from public verandah. The 2nd respondent has given an affidavit stating that the second violation had been removed and he had given an undertaking that he will pay the necessary compounding fee for violations 1, 3, 4 and 5 referred to above. Having regard to the subsequent event and the change of regulations relating to some of the deviations as compoundable, the order of resumption is set aside and the administration shall be at liberty to make an inspection of the property and ensure that deviation No.2 complained of has since been removed as affirmed in the affidavit. The administration shall be at liberty to assess the compounding fee as permissible under rules and make a demand specifying the amounts and the petitioners shall be bound to make the payment. Any default on their part will result in the consequences which the regulations provide for. The writ petition is allowed on the above terms. The affidavit given by Shri Mohan Singh, is taken on record and shall form part of the record.

Civil Writ Petition Nos.16737 and 17084 of 1989

3. In these two writ petitions, the petitioners are the tenants of the very same premises i.e. SCO Nos.70 to 72 in Sector 17-D, Chandigarh and the benefit of cancellation of the resumption order would avail to the benefit of the petitioners also. The writ petitions filed by them are also allowed on the above terms.

(K.KANNAN)
JUDGE

28.04.2010
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